



PATENT  
Customer No. 22,852  
Attorney Docket No. 08048.0048-000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
 )  
Jean-Louis H. GUERET ) Group Art Unit: 3751  
 )  
Application No.: 10/810,821 ) Examiner: Huyen D. Le  
 )  
Filed: March 29, 2004 )  
 )  
For: COSMETIC APPLICATOR ) Confirmation No.: 1007  
 )

**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO OFFICE ACTION DATED JULY 24, 2006**

In an Office Action dated July 24, 2006, the Examiner required an election of species under 35 U.S.C. § 121 among the following alleged distinct species:

Species I:	Fig. 2;
Species II:	Fig. 3;
Species III:	Fig. 4;
Species IV:	Fig. 5;
Species V:	Fig. 6;
Species VI:	Fig. 7;
Species VII:	Fig. 8;
Species VIII:	Fig. 10;
Species IX:	Fig. 11;
Species X:	Fig. 12;
Species XI:	Fig. 14;
Species XII:	Fig. 15;
Species XIII:	Fig. 16;
Species XIV:	Fig. 17;
Species XV:	Fig. 18;
Species XVI:	Fig. 19;
Species XVII:	Fig. 20;
Species XVIII:	Fig. 21; and
Species XIX:	Fig. 72.

In addition, upon election of one of the alleged species above, the Examiner required an election of one of the following alleged sub-species for each of the following alleged groups of sub-species:

Group (a)

Sub-species 1: Fig. 50;  
Sub-species 2: Fig. 51;  
Sub-species 3: Fig. 52;  
Sub-species 4: Fig. 53;  
Sub-species 5: Fig. 54;  
Sub-species 6: Fig. 55;  
Sub-species 7: Fig. 56;  
Sub-species 8: Fig. 57;  
Sub-species 9: Fig. 58;  
Sub-species 10: Fig. 59;  
Sub-species 11: Fig. 60;  
Sub-species 12: Fig. 61;  
Sub-species 13: Fig. 62;  
Sub-species 14: Fig. 63;  
Sub-species 15: Fig. 64;  
Sub-species 16: Fig. 65; and  
Sub-species 17: Fig. 66.

Group (b)

Sub-species A: Fig. 67;  
Sub-species B: Fig. 68;  
Sub-species C: Fig. 69;  
Sub-species D: Fig. 70; and  
Sub-species F: Fig. 71.

Although Applicant does not necessarily agree with the Examiner's apparent characterizations concerning various exemplary embodiments, Applicant provisionally elects, with traverse, to prosecute:

- Species III (Fig. 4);
- Sub-species 9 (Fig. 58) for alleged Group (a); and
- Sub-species B (Fig. 68) for alleged Group (b).

Applicant respectfully submits that at least claims 1-3, 7-11, 14, 15, 17, 19, 21-24, 26-34, 36-43, 47-51, 55, 57, 59, 61-64, and 66-80 are "readable" on elected Species III, Sub-species 9, and Sub-species B. Applicant respectfully notes that elected Sub-species 9 of Fig. 58 encompasses both a circular cross-sectional shape (e.g., claims 17 and 57) and a hollow cross-section (e.g., claims 19 and 59).

The Office Action does not specifically identify the claims that are generic to all of the alleged Species and Sub-species. Applicant respectfully submits that at least independent claims 1 and 42 are generic to all of the alleged Species and Sub-species. Applicant respectfully notes that upon allowance of a generic claim, all of the claims depending from, or otherwise containing all of the limitations of, any generic claims should be rejoined and examined on the merits.


If the Examiner believes that a telephone conversation might advance prosecution, the Examiner is cordially invited to call Applicant's undersigned representative at 571-203-2774.

Applicant concurrently files a Petition for a one-month extension of time and the associated fee payment to extend the reply due date until September 25, 2006 (since September 24, 2006 is a Sunday). If any additional extension of time is required to enter this Response, please grant such extension and charge any additional required fee to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: September 19, 2006

By:   
Anthony M. Gutowski  
Reg. No. 38,742